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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,874

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Seppo Arijoki

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EXAMINER

GREENHUT, CHARLES N

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/700,874	<b>Applicant(s)</b> ARIJOKI ET AL.	
	<b>Examiner</b> Charles N. Greenhut	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**I. Priority**

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 11/8/02. It is noted, however, that applicant has not filed a certified copy of the European application as required by 35 U.S.C. 119(b).

**II. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3-6 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. With respect to claim 3, it is unclear what is meant by the phrase, "a distance in the range of 4.00 – 8.50 meters above ground level" in line 4-5. It is unclear if applicant is attempting to recite that the second shifting step includes raising the second loading platform an additional 4.00 – 8.50 meters above the initial 6 meters or the second shifting step includes raising the platform to an overall height in the range of 4.00 – 8.50 meters above ground level. Based on page 4 of applicant's specification the latter interpretation will be assumed for purposes of examination on the merits, however, clarification is required.

1.2. Also with respect to claim 3, parent claim 2 limits the second shifting step to include raising the platform a distance of 50% - 100% of the first step. Where applicant recites that the first step includes raising a distance of 6 meters in claim 3, by this limitation applicant has indirectly limited the second step to a distance in the range of

3 – 6 meters in order to agree with parent claim 2, this results in an overall height of about 9 – 12 meters. Either of the possible interpretations of claim 3 discussed above in paragraph 1.1 would fall outside this range. Since claim 3 depends from claim 2, and must therefore include every limitation of claim 2, claim 3 cannot recite a range broader than the range required by claim 2. Appropriate correction is required.

1.3. With respect to claim 20, it is unclear what is meant by the phrase, “with respect to the horizon” in lines 3 and 4.

### **III. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1 and 8-20 is/are rejected under 35 U.S.C. 102(b) as being anticipated by MALLOY (US 6,164,892 A).

1.1. With respect to claim 1, MALLOY discloses providing a first loading platform (at either of 24 or 26) having a horizontal transfer (note powered rollers – Fig. 4) and powered lift (Fig. 2), positioning a load on the platform (Col. 3 Li. 53) at a first elevation (lower level), shifting the first load platform upwardly (Col. 3 Li. 54) to a second elevation (upper level), providing a second loading platform (36) having a horizontal transfer (note powered rollers – Fig. 3) and powered lift (Fig. 2), transferring the load (via 30) from the first platform (at 24/26) at the second (upper) level to the second loading platform (36) at the second (upper) elevation, shifting the

second loading platform (36) to the hold elevation (door level -Col. 2 Li. 58-63 mating with 14 already at the door level Col. 3 Li. 37-39), and transferring the load from the second loading platform (36) to the aircraft (via 14 Col. 3 Li 61-62).

1.2. With respect to claims 8-10 MALLOY additionally discloses the first platform on a first device (24/26), the second platform on a second device (28), the devices are separate vehicles, a transfer bridge (16),

1.3. With respect to claim 11, MALLOY discloses unloading the aircraft comprising the reverse of the loading process as described above (Col. 4 Li. 7-15).

1.4. Claims 12-20 are clearly anticipated by MALLOY.

2. Claim(s) 12-19 is/are additionally rejected under 35 U.S.C. 102(b) as being anticipated by applicant's admitted prior art shown at (11) or in DE-3730415-C2 (US 4,701,097 A).

2.1. Claims 12-19 are clearly anticipated by applicant's admitted prior art shown in figure 1 at (11) and discussed in the specification at pages 5-11.

#### **IV. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 2-7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over MALLOY (US 6,164,892 A).

1.1. With respect to claim 2-3, and 7, MALLOY states that the second shifting step is generally never more than 4 ft (1.2 m). (note typographical error in MALLOY at Col.

4 Li. 25 reference numeral 14 should read 30 for agreement with previous paragraph.) MALLOY contemplates use with the largest commercially available aircraft in use at the time, a Boeing 747, which requires a maximum loading height of 18.3 ft (5.6 m) (spec. pg. 9). The MALLOY loading steps for a 747 are approximately 14.4 ft (4.4 m) for the first step and 4 ft (1.2 m) for the second step. In contemplation of loading the newer Airbus A380 applicant claims steps of around 19.7 ft (6 m) for the first step and 50% -100% of that or 9.9 ft -19.7 ft (3 m - 6 m) for the second step. The Airbus A380 is generally known to be marketed as a replacement, upgrade or interchange for the Boeing 747. It would have been obvious to one having ordinary skill in the art to modify equipment intended for use with the Boeing 747 to be compatible with the Airbus A380. It therefore would have been obvious to one having ordinary skill in the art to increase the step sizes of MALLOY in order to provide compatibility with the Airbus A380.

- 1.2. With respect to claims 4-6, MALLOY additionally discloses the first platform on a first device (24/26), the second platform on a second device (28), the devices are separate vehicles, a transfer bridge (16),

#### **V. Response to Applicant's Arguments**

Applicant's arguments entered 7/24/06 have been fully considered.

1. Applicant argues that BRYAN in view of MOORE does not render claim 3 obvious under 35 USC 103(a). This argument is persuasive and the rejection of claim 3 over BRYAN in view of MOORE is therefore withdrawn. Upon further consideration however, a new ground of rejection over MALLOY is presented above.

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2. Applicant's remaining arguments with respect to the propriety of the rejections previously asserted are rendered moot in light of the new ground for rejection presented herein, and are therefore not addressed.

## **VI. Conclusion**

1. In light of the new grounds of rejection presented herein, this action is made non-final.
2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 6:30am - 3:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

  
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